MEETING SUMMARY REPORT
WSU Health Sciences Bldg, Room 110A
310 Riverpoint Blvd, Spokane WA 99210-1495

July 20, 2005

Regulatory Enforcement Fairness Hearing

Total attendance:	**34**
Congressional attendance	**04**
RegFair Board in attendance	**02**
SBA personnel	**06**
Agencies attending	**06 (EPA; USDA/FSIS; IRS; DOL/OSBP; DOL/Wage & Hour Div.; BATF)**
No. of comments	**08**

Small Business Organizations	Point of Contact	Membership
Spokane Chamber of Commerce	Jeff Selle	2,000
BIZStreet Resource Center	Dawn Burns	1,600
Colville Chamber of Commerce	Ron Sandrock	215
Automotive Recyclers of Washington	Steve Spalding	240
Spokane Valley Economic Development	Diana Wilhite – Mayor	87,000
Ponderay Newsprint	Lori Blau	194
Independent Business Association	Gary Smith	4,200
WA Restaurant Association	Donna Tikker	4,500
WA Farm Bureau	Mike Poulson	35,000
Associated Industries	Jim DeWalt	35,000
TINCAN - Community Access Network	Karen Michaelson	5,000
Inland NW Women’s Business Center	Deb Barnes	75
WA State Small Businesses Dev Center	Brett Rogers	40
SCORE	John Gilbert	90

AHANA Minority Bans Association NAWBO	Ben Cabildo Shelley Runolfson	400 89
Total Represented		**175,643**

Summary:

Testifiers:

1. Alexis Koester – Owner/Operator - Smith Brothers Farms, Inc.

USDA: Proposed amendments to federal milk marketing regulations threaten to negatively affect "producer-handler" dairy operations, like Smith Brothers Farms, a third-generation family-owned enterprise that processes and markets milk from its own dairy cows on its own farms and serves a niche market. Pushed by large agri-business interests, the proposed USDA regulation change will set a national precedent that will result in further consolidation of the industry, raising prices and limiting choices for consumers. The proposed regulation would require producer-handlers who put more than three million pounds of milk (about 350,000 gallons) on the market (only about 1/200th of the total produced in the northwest) to pay substantial amounts of money into a pool of funds intended to subsidize other producers. The federal funding pool – along with the price regulation that supports it – was created in the 1930s to protect small dairy farmers from exploitation by centralized processors who might buy their raw milk at unfair prices. Smith Brothers Farm and other producer-handlers have always been exempt from this "pooling and pricing" regulation because they process their own milk and are not involved in the business transactions covered by the USDA subsidy pool. Congress has repeatedly upheld this exemption. The USDA is threatening the family farm by changing rules that have been in place for 75 years. If Smith Brothers Farms and others like it that bottle their own milk are forced to pay into the federal subsidy pool, this new cost would be greater than their annual profits. They will have to pass increased expenses on to consumers, reduce the size of their operations, or go out of business.

2. Bruce Barany – Secretary/Treasurer – General Store, Inc.
BATF: The General Store has been a federal firearms dealer since the early 1950s. From 1980 to 1999, they had approximately 10-12 inspections of their firearms sales records by agents from BATF. These inspections lasted ½ to one hour each wherein an agent would check the correlation between their federal 4473 registration forms and their log-inventory book. In those 20 years, they passed all inspections without comment or problems. In January 2000, four inspectors showed up for two weeks to reinspect minute details in 20 years of records. In the 42,000 to 43,000 transactions reviewed, the records were deemed in good order with only a number of minor violations due to clerical errors. The General Store improved its record keeping and had three bi-annual inventory of firearms inspections where all a paperwork for the 3,200 to 3,500 firearm transactions done annually were found to be in order. In 2003, a new squad of BATF agents spent ten days inspecting the store, applying a zero tolerance policy for any and all minor violations and using an adversarial and authoritarian tone and demeanor. There was no evidence of any form of criminal wrongdoing, only clerical problems on some paperwork. However, BATF raising the bar to absolute perfection and then nit-picking details resulted in revocation of the General Store's firearms license. This has had a substantial adverse impact on the General Store, one of the largest retail gun dealers in the Spokane region.

3. Roxanne Spalding – Owner of Bill's Auto Parts and member of Automotive Recyclers of WA.

EPA: Storm water regulations resulting from 40CFR122.26 (b) (14) and the Multi-sector General Permit adopted by the EPA impose excessive financial burden on vehicle recyclers. It costs about $1,800 for the average affected firm in Washington State to comply with the extremely strict storm water discharge planning and monitoring requirements. With an industry profit margin of about two percent, a vehicle recycler would need to generate $90,000 in additional sales to cover the cost of compliance. Sales in the automotive recycling industry are declining, not increasing, yet regulatory costs are increasing. In order to help the automotive recycling industry survive, the EPA could adjust regulatory costs by eliminating or greatly reducing the monitoring, reporting and other costs of firms that demonstrate that they have no contaminated discharge.

4. **Roxanne Spalding – Owner of Bill's Auto Parts and member of Automotive Recyclers of WA.**

EPA: The regulation (40CFR63) of mercury emissions from steel recycling firms is having a direct, adverse impact on the vehicle recycling industry. Mercury is bad for the environment, so the EPA adopted 40CFR63 to greatly reduce or eliminate mercury emissions from steel recycling firms. But because many U.S. vehicles have mercury-containing switches, the regulatory costs are imposed on the vehicle recycling industry as the steel recycling firms require vehicle recyclers to remove mercury switches so that mercury is not part of the scrap metal that they receive. Forty percent of current end-of-life vehicles have mercury-containing convenience light switches. The Automotive Recyclers of Washington calculated that the cost of removal of these switches is between $3.58 and $10.34. The estimated cost - $358,000 to $1.03 million per year in new costs - spread across 240 firms in Washington state amount to about $1,491 to $4,291 per firm. Washington state vehicle recyclers would need to generate between $17.9 million and $51.5 million in sales and use the profits from those sales to cover this regulatory cost. Sales in the industry are decreasing. Auto manufacturers saved a few cents per switch when they changed from mechanical switches to mercury ones, and most foreign manufacturers opted against mercury-containing switches because of the mercury disposal issue. No regulatory flexibility analysis including the impact on vehicle recyclers was done. U.S. manufacturers chose to use mercury-containing switches, in spite of environmental concerns, and so they have a responsibility to cover the clean up costs of their decision. Continuing to impose this regulatory cost onto vehicle recyclers may put this industry out of business.

5. **Fred Brackebusch – Owner – New Jersey Mining Co.**

USFS: The New Jersey Mining Company has mining claims in the Panhandle National Forest and submitted an operating plan to mine ore reserves in the Silver Strand mine there. The plan submitted in April 2003 was approved in May 2005. The complaint is that USFS took too long to complete its analysis. When the USFS does not make decisions about regulatory issues and environmental concerns in a reasonable timeframe, it harms the ability of the company to obtain funding to operate.

6. **Fred Brackebusch – Owner – New Jersey Mining Co.**

DOL/Mine Safety & Health Administration: Under 30 CFR part 49.2, mine operators must either have their own mine rescue teams or contract with mine rescue organizations for that service. Each mine or mining operation must have a separate contract. The New Jersey Mining Company has two miners working in each of three small mines that are within close proximity of each other in the Coeur d' Alene Mining District. Each mine rescue contract costs $500, thus costing NJMC a prohibitive $1,500/month for the three mines. Because all three mines are near each other, it would be reasonable to have just one mine rescue team contracted to serve the three mines, reducing the cost to a more affordable $500/month for compliance with the regulation.

7. **Laurie Blau – Technical Services Manager - Ponderay Newsprint Company**

Dept of Interior: Ponderay Newsprint was built as a greenfield mill, and chose Pend Oreille County when it started production in 1989 because of the availability of wood fiber and low-cost power. Wood and power account for about forty percent of its product costs, so regulatory issues that impact the local dam also impact Ponderay Newsprint. Though final conditions are still being evaluated, it is estimated that the Pond Oreille PUD's Box Canyon Dam's costs of operating under the FERC's new license will double the cost of power. As a non-federal hydro project, under current rules, certain agencies have mandatory conditioning authority (referred to as 4(e) conditioning) for FERC licenses. This means agencies can mandate conditions and FERC must accept them. The most difficult agency to work with has been the Department of the Interior with its mandatory conditions for fish passage that may lack sufficient scientific basis to support such expensive requirements. Under present rules, FERC is unable to balance these 4(e) mandatory conditions with the impact on people or the local economy. The previous cost to operate the dam was about $5,000,000 per year whereas the cost under the new license is estimated at an additional $5,000,000 per year. As the PUD's only large customer, Ponderay Newsprint will pay a large portion of Box Canyon Dam's increased costs of operating. It cannot absorb a cost increase of this magnitude in one of its primary raw materials. If the Pond Oreille Newsprint facility were to close down, the huge costs for the new license will then fall more heavily on the rest of the customers in a county that is already plagued with high unemployment.

8. **Gary Smith (read into record by Reg Fair Board member Shiao-Yen Wu) - Executive Director – Independent Business Association.**

OSHA: There is a conflict between 29CFR1910.151 which requires every small employer to provide first aid services to an injured worker promptly, and 29CFR1910.1030 which requires employers to also have a program to protect their employees from bloodborne pathogen exposure. In order for small firms to meet the first aid requirement, they must implement the complex and costly bloodborne pathogen program. OSHA's Regulatory Flexibility analysis of the final rule indicated that the cost per private sector firm to comply with the bloodborne pathogen regulation ranges from $872 to $9,902, excluding hospitals that have a projected annual facility cost of $51,946. The cost of up to $9,902 to comply is too expensive for many small businesses. If they meet the requirement to have their employees render first aid to injured coworkers but don't meet the costly bloodborne pathogen requirements as well, they are open to adverse regulatory enforcement actions because of failure to comply. Small employers can avoid the costs of the bloodborne pathogen regulation if they avoid having their staff render first aid, but then they would be out of compliance with that competing requirement to aid injured workers. The testimony called for helping small businesses comply with both regulations by requiring less expensive measures, such as incorporating bloodborne pathogen exposure training into first aid training programs and automatically supplying in standard first aid kits the various protective items that can be used to shield workers from bloodborne pathogens.

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